

**Escrow Agreement:
Additional Contribution
By Sponsors
For Operating Deficit**

U.S. Department of Housing
and Urban Development
Office of Housing

OMB Approval No. 0000-0000
(exp. 00/00/00)

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This Agreement made this _____ day of _____, 20____, by and between the Lender described more fully below and _____, having an office at _____, Sponsor of HUD Project No. _____, located in the City/County of _____, State of _____, which Project has been, is being, or will be constructed, from the proceeds of a security instrument given by _____, as Borrower (which term, when used herein, also shall be deemed to have the meaning set forth in the HUD regulatory agreement applicable to this transaction), to _____, as Lender (which term, when used herein, also shall be deemed to have the meaning set forth in the HUD regulatory agreement applicable to this transaction), having an office at _____.

WITNESSETH:

WHEREAS, the Secretary of Housing and Urban Development (HUD) has issued his/her commitment to insure said mortgage (or deed of trust), on which insurance Sponsor is relying for financing of the Project, and

WHEREAS, said commitment is conditioned upon assurance that additional funds be made available for Project purposes, primarily for the absorption of any deficit resulting from the operation of the Project during the initial period of occupancy;

NOW, THEREFORE, Sponsor and Lender hereby agree as follows:

1. Sponsor has deposited with _____, Depository, \$_____, receipt of which is acknowledged by the Depository, to be held and disbursed by the Depository as hereinafter set out, said deposit being [*specify one*]:

- ___ (a) cash, or
- ___ (b) an unconditional irrevocable letter of credit issued to Depository by a banking institution,

2. Said deposit shall be held subject to disbursement at the direction of HUD for a period of _____ months following final endorsement of the mortgage loan for insurance plus any additional period by which the beginning of amortization of the loan may be deferred. Disbursements from the escrow may be authorized monthly by HUD to meet any cash deficit in the operation of the Project for the period immediately following substantial completion of construction. In determining the amount of such cash deficit, effect will be given to the Borrower's payments for amortization and deposits in the Reserve for Replacements, but no effect will be given to depreciation, officers' salaries, and management fees paid to the Borrower, Sponsor, Principals (as such term is defined in the HUD regulatory agreement applicable to this transaction) or their nominees.

3. The deposit shall be subject to immediate application to the debt under the Security Instrument (as such term is defined in the HUD regulatory agreement applicable to this transaction) in the event of default thereunder at any time prior to the expiration of the escrow period.

4. IT IS UNDERSTOOD AND AGREED that at the expiration of the escrow period, or at such earlier date as HUD, in his/her sole discretion, determines that the Project has achieved sustaining occupancy and income, any balance remaining on deposit will be returned to Sponsors, without interest.

5. IT IS FURTHER UNDERSTOOD AND AGREED that the Depository will hold and disburse this escrow at the sole direction of HUD; and Sponsor hereby authorizes Lender, in the event the deposit hereunder is other than in cash, to draw against the letter of credit or to sell the bonds to the extent necessary to provide the cash necessary to make the disbursements directed by HUD, and in the event that such letter of credit cannot be converted to cash, the Lender shall immediately provide a cash deposit equivalent to the undrawn balance of the letter of credit.

6. Whenever used herein, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

The parties have executed this Agreement as of the day and year first above written.

SPONSOR:

LENDER:

By _____

By _____

Name and Title

Name and Title

Warning

Any person who knowingly presents a false, fictitious, or fraudulent statement or claim in a matter within the jurisdiction of the U.S. Department of Housing and Urban Development is subject to criminal penalties, civil liability, and administrative sanctions, including but not limited to: (i) fines and imprisonment under 18 U.S.C. §§ 287, 1001, 1010 and 1012; (ii) civil penalties and damages under 31 U.S.C. § 3729; and (iii) administrative sanctions, claims, and penalties under 24 C.F.R parts 24 and 28.